STATE OF ARIZONA FILED

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STATE OF ARIZONA

DEPT OF INSURANCE BY

DEPARTMENT OF INSURANCE

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In the Matter of the Withdrawal of:

COMPANY (NAIC No. 80381),

Petitioner.

PERFORMANCE LIFE INSURANCE

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Docket No. 96A-164-INS

ORDER

On November 6, 1996, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

- 1. The recommended findings of fact and conclusions of law are adopted.
- 2. The Petitioner may file its Articles of Amendment to its Articles of Incorporation ("Articles of Amendment") with the Arizona Corporation Commission.
- 3. The Petitioner is entitled to the release of its statutory deposit in the sum of \$100,000.00 and Petitioner's statutory deposit will be released to the Petitioner after the Department has received the following: (a) a copy of Petitioner's Articles of Amendment certified as filed by the Arizona Corporation Commission; and (b) a fully executed Form E126 (Notice of Trust Deposit Release). The

1	statutory deposit cannot be released until the Department receives a fully executed copy of the official
2	State Treasurer Release Receipt.
3	4. The sum of \$100.00 previously credited to the Insurance Examiners' Revolving
4	Fund ("IERF") will be refunded to the Petitioner, pursuant to A.R.S. § 20-159.
5	5. The Petitioner will file its 1996 Annual Statement with the Department, together
6	with all applicable fees, unless Petitioner files its Articles of Amendment with the Arizona Corporation
7	Commission on or before December 31, 1996.
8	NOTIFICATION OF RIGHTS
9	The aggrieved party may request a rehearing with respect to this Order by filing a written
10	petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth
11	the basis for such relief pursuant to A.A.C. R20-6-114(B).
12	The final decision of the Director may be appealed to the Superior Court of Maricopa
13	County for judicial review pursuant to A.R.S. § 20-166.
14	EFFECTIVE this day of November, 1996
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16	$\cap \mathcal{V}$
17	John King
18	Director of Insurance
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2	A copy of the foregoing mailed this 13th day of November, 1996
3	Charles R. Cohen, Deputy Director Gregory Y. Harris, Executive Assistant Director
4	Mary Butterfield, Assistant Director Catherine O'Neil, Assistant Director
5	Gary Torticill, Assistant Director Deloris Williamson, Assistant Director
6	Scott Greenberg, Business Administrator Rose McNabb, Solvency Support Unit Supervisor
7	Kurt Regner, Examiner Arizona Department of Insurance
8	2910 North 44th Street, Suite 210 Phoenix, AZ 85018
9	
10	Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, AZ 85007
11	Thomas, 712 05007
12	Philip T. Paris 2929 North 44th Street, Suite 120 Phoenix, AZ 85018
13	Λ Λ Λ .
14	Rosemary V. Fadella
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Withdrawal of

PERFORMANCE LIFE INSURANCE COMPANY (NAIC No. 80381),

Petitioner

No. 96A-164-INS

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE

HEARING: November 1, 1996

APPEARANCES: Philip T. Paris, Esq. for the Petitioner, and Kurt Regner for the Arizona Department of Insurance.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

On November 1, 1996, a hearing took place to consider the application of Performance Life Insurance Company (the "Petitioner"), NAIC No. 80381, that was filed with the Arizona Department of Insurance (the "Department") to withdraw from the insurance business and for the release of its statutory deposit pursuant to A.R.S. §20-588 and A.A.C. R20-6-303.

Based upon the entire record in this matter, the following Recommended Findings of Fact, Conclusions of Law and Recommended Order are made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- The Petitioner has surrendered its Certificate of Authority to the Department.
- 2. The Petitioner has filed with the Department certified copies of Resolutions of the Petitioner's Board of Directors and of the Petitioner's shareholder(s) to withdraw from the insurance business, to amend its articles of incorporation to eliminate its insuring powers, and to adopt a new corporate name which shall not include the word "insurance".

Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, Arizona 85007 (602) 542-9826

- 3. The Petitioner has no insurance obligations owing to it, whether by policies written direct or by reinsurance ceded to it.
- 4. The Petitioner has filed its certified financial statement as of August 31, 1996 with the Department.
- 5. At least ten business days before the hearing of this matter, Petitioner gave special notice to creditors and policyholders of the Petitioner, setting forth the date, place, nature and purpose of the hearing, as evidenced by an affidavit of publication. Petitioner also provided individual notice by mail to its known creditors, as evidenced by an affidavit.
- 6. The Petitioner has a \$100,000.00 statutory deposit with the Department and a \$100.00 deposit with the Insurance Examiners' Revolving Fund ("IERF").
- 7. The Petitioner has complied with the provisions of A.R.S. §20-588 and with A.A.C. R20-6-303, relating to the release of its \$100,000.00 statutory deposit.

RECOMMENDED ORDER

The undersigned Administrative Law Judge recommends that:

- 1. The Petitioner may file its Articles of Amendment to its Articles of Incorporation ("Articles of Amendment") with the Arizona Corporation Commission.
- 2. The Petitioner is entitled to the release of its statutory deposit in the sum of \$100,000.00 and Petitioner's statutory deposit shall be released to the Petitioner after the Department has received the following: (a) a copy of Petitioner's Articles of Amendment certified as filed by the Arizona Corporation Commission; and (b) a fully executed Form E126 (Notice of Trust Deposit Release). The statutory deposit cannot be released until the Department receives a fully executed copy of the official State Treasurer Release Receipt.
- 3. The sum of \$100.00 previously credited to the IERF shall be refunded to the Petitioner, pursuant to A.R.S. §20-159.

4. The Petitioner shall file its 1996 Annual Statement with the Department, together with all applicable fees, unless Petitioner files its Articles of Amendment with the Arizona Corporation Commission on or before December 31, 1996.

Done this day, November 6, 1996.

LEWIS D. KOWAL

Administrative Law Judge

Original transmitted by mail this __(g__ day of November, 1996, to:

John King, Director ATTN: Curvey Burton Department of Insurance 2910 North 44th Street, #210 Phoenix, AZ 85018-7256

By Chris Crawford